S.B.Civil Writ Petition NO.491/2005

Kanhiya Lal Ahir

vs

State of Rajasthan & Ors.

DATE OF ORDER : - 24.1.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. Harish Purohit, for the petitioner.
Mr. Vijay Bishnoi, for the respondent no.3

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Heard learned counsel for the petitioner and the learned counsel for the respondent no.3.

The petitioner's grievance is against the wrongful rejection of his nomination paper by the Returning Officer vide Annex.5.

It appears from the order Annex.5 that petitioner's nomination paper was rejected on raising an objection by the respondent no.3 that the petitioner is in service in Rajasthan State Road Transport Corporation and, therefore, he is holding the post of profit.

According to learned counsel for the petitioner, the petitioner was not given opportunity of hearing before rejection of nomination

paper despite petitioner's requests for hearing the petitioner. It is also submitted that petitioner, in fact, resigned on 13.1.2005 before furnishing nomination paper and, therefore, the Returning Officer has committed error of fact also in rejecting the petitioner's nomination form. It appears from the order Annex.5 that the nomination paper was submitted at 1.15 PM on 13.1.2005 and petitioner's case is that he resigned on the same day, i.e., on 13.1.2005 itself. Whether the petitioner submitted resignation to his employer before submitting the nomination paper or thereafter, and whether the petitioner was given opportunity of hearing before the impugned order was passed etc., can be gone into properly in the election petition, which petitioner can file under the provisions of the Rajasthan Panchayati Raj Act, 1994. Therefore, at this stage, when the process of election has started, this court is not inclined to entertained the writ petition of the petitioner while exercising powers under Article 226 and 227 of the Constitution of India .

Therefore, the writ petition of the petitioner is dismissed with liberty to the petitioner to take his all grounds in his election petition, if any occasion arises for the petitioner to do so.

(Prakash Tatia), J.

c.p.goyal/-